

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JUDGE'S COPY

JEFFERY P. MOSER,

Plaintiff,

v.

KENNETH KYLER, et al.,

Defendants.

Civil No. 1:00-CV-1846

JURY TRIAL DEMANDED

**FILED
HARRISBURG**

JUN 07 2001

MARY E. D'ANDREA, CL
Per _____

DEPUTY CLERK

** Affa Davit To Court in Support of Civil Action **

*I, Jeffery Paul Moser, Plaintiff in the a Caption matter
swears to the following:*

*1.) ON 5-24-2001 MOSER ENTER A GRIEVANCE INTO RECORD WITH
THE GRIEVANCE COORDINATOR SEE-MONTGOMERY, (ABOUT N.D.A. DISCRIMINATION ECH,
SEE EXHIBIT (B1).) AND TO DATE IT GO'S UNANSWERED AND UNDOCKETED IN
VIOLATION OF DC-ADM-800, MOSER CONSIDER'S THIS MORE EVIDENCE OF THE
DEFENDANT(S) EFFORT TO BLOCK MOSER DUE PROCESS, EXHAUSTION ATTEMPT(S).*

*2.) ON 6-5-01 GRIEVANCE WAS FILED BY MOSER, DOCUMENTING
AN ACT OF INDIFFERENCE AND/OR RETALIATION, (SEE EXHIBIT (B)) TOWARDS
THE PLAINTIFF AS A DIRECT RESULT OF THIS CIVIL ACTION. MOSER ASK
THE HONORABLE COURT TO "ENTER" THIS AFFIDAVIT AND EXHIBIT INTO
HONORABLE COURT RECORD, AS MOSER BELIEVES THIS ACT OF DELIBERATE
INDIFFERENCE, WILL CAUSE HIM MUCH PAIN & SUFFERING, AS WELL MOSER
BELIEVES THE DEFENDANT(S) ARE ATTEMPTING TO STOP MOSER "LIMITED
"ABILITY" TO LITIGATE THIS MATTER, AS DR. OPIDA A NERVE SPECIALIST
RECOMMENDED ONLY "A LARGE AMOUNT OF PSYCHOTROPIC MENTAL HEALTH
MEDICATION" FOR A BACK INJURY. A BLATANT ATTEMPT TO QUITE THE
PLAINTIFF VIOLC IN THE HONORABLE COURT. MOSER HAS A DOCKETED ADVERSE
REACTION, AND WILL NOT TAKE MEDICATION, WHICH INTENTIONAL CAUSE
HIM "HARM", AT THE HANDS OF INDIFFERENT DEFENDANT(S).*

** PLEASE ENTER IN TO RECORD ON THIS 5th DAY OF JUNE 2001*

** SWORN TO BY: Jeffery Paul Moser*

Copy Forwarded (3)

DC-804
Part 1Exhibit: 1:00-CV-1846
-LEGAL-COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY

GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: <i>Huntingdon</i>	DATE: <i>5 June, 2001</i>
FROM: (INMATE NAME & NUMBER) <i>Jeffery Paul Moses BE4713</i>	SIGNATURE of INMATE: <i>[Signature]</i>	
WORK ASSIGNMENT: <i>DISABLED</i>	HOUSING ASSIGNMENT: <i>EA-1006</i>	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

I WAS TAKEN TO A Specialist (NOT HOMO-SURGICAL Today (Dr. Cicero Opida). THIS IS AFTER I MAKE Dr. OPIDA, Dr. Kinder, Judge Caldwell "Federal Court", aware THAT Dr. OPIDA IS A TRUE Defendant on my Civil Action (Moses vs. Kyle 1:00-CV-1846). THIS would be a conflict of interest, As Doctor Opida is Bias Towards me. In my first visit Dr. Opida made reference to a tattoo on my leg that states "ARMY NATION", After which He has always looked at me as a knick. (Froglike & Bias are His Action Towards me.) Afterward He recommended treatment He knew would CAUSE ME GREAT PAIN & SUFFERING, As He IS state on "Deliberate Defendant on 1:00-CV-1846)" Today I was FORCED TO SEE Dr. Opida Again, Where He made such statements as: "Yes, I see you have NEAR Damage and Humiliation of the Disc, But I Don't recommend surgery As you'll continue to get worse; I recommend you have your surgery when you get out OF Prison, when you can pay for it yourself, You should know when you went to Prison, they wouldn't pay for it. When ask what medication and/or treatment He recommended HE said: THE meds you take on THE streets ARE TO EXPENSIVE, I'll order something cheaper. (He order a medication I can't take because of ADVERSE effects to the test.) I FEEL wronged because and Dr. Opida action are Bias, vindictive and retaliatory."

B. List actions taken and staff you have contacted, before submitting this grievance.

*I HAVE EVERY AVAILABLE Effort to Rectify the situation Before and After. with: THE medical Director SLC - Huntingdon
Dr. Opida vs: U.S. CIVIL (LEGAL)
Federal Court Matter: Moses vs. Kyle 1:00-CV-1846
Based upon the Court order Ap/ May 2001 (in Ref: Opida (4) Filings.)
Conflict of interest Letter Filed timely to Opida office.*

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Facility Grievance Coordinator

Date

EXHIBIT (A) (1)

DC-804
Part 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY

GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR <i>2 of 2</i>	FACILITY: <i>Huntingdon</i>	DATE: <i>5 June 2001</i>
FROM: (INMATE NAME & NUMBER) <i>JEFF MOSEK BE4713</i>	SIGNATURE of INMATE: <i>Jeff Moser</i>	
WORK ASSIGNMENT: <i>Dierck Biester</i>	HOUSING ASSIGNMENT: <i>EA-106</i>	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

I Direct Result Past and Present of my Legal Fight To Be Afford Recommended Medical Treatment By The Professional In This Facility (Nuro-Surgeons). Dr. Kimble & Dr. Opida made the same statement to me, "Nuro-Surgeons will all do a surgery so they can profit from it massively" So the (2) Doctors who are not trained surgeons (nuro) both say one thing but short, Nuro-Surgeons are crooks and only do it for the money, not because I'm in need of the operation and medication to relieve some of the pain and correct the damage. I feared the day this matter goes to trial, and these doctors will get to tell a jury, that all Nuro-Surgeons are crooks. The truth is I was unjustly forced into a retaliatory situation today to "save Wexford Healthcare money" so who I feared is the unethical and illegal one really. Dr. Kimble & Dr. Opida now, agree I have spent money that the M.R.E. Shows causes me great pain, they agree the situation will only get worse over time, and they also agree as their actions the best treatment is no treatment, because it is the cheapest treatment, and save Wexford money! Besides prisoners aren't deserving of proper health care (just ask Dr. Opida) I take

B. List actions taken and staff you have contacted, before submitting this grievance.

- (Certificate of service)
E. J. R. Mosek serve the following
Relevant to 28 U.S.C. 1746
1. Grievance officer Mr. Barry
 2. U.S. Dist. Ct. 6/6/01
 3. Counsel For Defendants. 6/6/01

This force officer visit today as a direct attack on me of indifference. I will decline medical health medication as I don't wish to be drugged until I stop fighting this matter also. As was attempted before, please consider this another matter, act of Deliberate indifference toward me. Thank

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Facility Grievance Coordinator

Date

EX (A) (2)

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598Exhibit Attached in support of
Exemption (Sec. (B))Date/with: [signature]
Sworn Submission Part 1
Date 5/24/01

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

TO: GRIEVANCE COORDINATOR <u>S. E. C. Hummingbird (112-RAMU)</u>	INSTITUTION <u>S. E. C. H</u>	DATE <u>5/24/01</u>
FROM: (Commitment Name & Number) <u>JEFFERY MOSEK BE4713</u>	INMATE'S SIGNATURE <u>[Signature]</u>	
WORK ASSIGNMENT <u>DISORDERED PRISONER</u>	QUARTERS ASSIGNMENT <u>EA-1006- Doubled-up</u>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

* A.D.A. (Request to DC-ADM 804 VE (4) (F) GRIEVANCE..

I WAS RECENTLY GRANTED PAROLE 3/30/2001 AND I AM TOLD I WAS PLACED ON A
waiting list, awaiting a Bed Date For a short-term in-patient alcohol program through
THE REGION 3 C.C.C. which is under the authority of THE PA. D.O.C. I strongly
Believe I am being Discriminated Against in this Process, DUE TO MY NEEDED
medical treatments & medications (i.e. Disabilities) AS I SEE OTHERS WHO
ARE NOT DISABLED, GET BED DATES IN THE NEAR FUTURE AND LEAVE PRISON, WHY
I am OVERLOOKED DUE TO MY NEEDS and/or Disabilities. I am Ambulatory IF
I take medication, and can make it through a short-term program (30 days) without
a Doctor (IF I take the proper medication) I should not continuously BE STAYED ON
ON THE LIST in Violation of A.D.A. statute(s) THE PA D.O.C. 12132 & 12131,
DC-ADM-804 (V) (F) AND I ASK FOR ASSISTANCE AND RELIEF IN THIS MATTER, PLEASE SEE ENCL.

B. Actions taken and staff you have contacted before submitting this grievance:

I wish to get back to my own doctors & family.
wrote Prisoners Parole office, wrote Parole Board Hearing, wrote superintendent
Kyle for assistance, spoke to Dr. Kimble, U.S. Justice Dept. (Civil Rights and
Constitutional Complaints Office) (4) separate Assoc. groups for disabled (see attached)

Summary
I have complied with the rules of Exemption (A, C, D, E) Requested Monetary Damages IF NOT RESOLVED

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

Exhibit (B)

On this _____ day of _____ 2001

Jeffery Paul Moser BE 4713
1100 Pike Street SCIH
Huntingdon, PA. 16654-1112

RE: Disabled Person Requesting Assistance

Greetings:

My name is Jeffery Moser and I am presently incarcerated at S.C.I. Huntingdon, a Pennsylvania Correctional Facility. I am a 'Legally Disabled Person', qualified and approved by:

- a. Federal Medical Center, Fortworth, Texas
- b. Pennsylvania Department of Corrections, Camp Hill, Pa.
- c. Pennsylvania Disabilities Comm.
- d. Social Security Administration-Applciant
- e. Texas Disabilities Comm.-Applciant

My disabilities are due to a spine injury as well as some related mental issues. I am ambulatory at this point of my life, meaning at times I have been confined to a wheelchair, and if I don't receive my needed spinal fussion operation shortly I maybe back in a wheelchair. I must remain on medication to remain ambulatory, but hopefully, after my operation this won't be the case any longer, but for now, I require doctor supervision and medication.

I feel presently, that I am suffering from extreme prejudice & discrimination, due to my disabilities, at the hands of the Pennsylvania Dept. of Corrections. (Community Corrections Division; C.C.C. Region #'s 1, 2, 3)

In short, let me explain :

I was recently granted re-parole by the PA. Board of Probation & Parole (3/30/01) attached exhibit, with the expressed condition that I attend an 'in-patient alcohol treatment (28 days), before returning home to my wife and children and my own doctors, in Reno Nevada. On parole, I'm instructed that I must be assigned a bed 'date' through the Region #1, C.C.C., 1335 Cheltham Ave. Elkin, PA. 19027, before I can leave prison on parole.

The problem is, to my understanding, it is a much longer wait for a disabled prisoner to get a 'bed date' and/or released date than a non-

(R112)

disabled prisoner. So, to my understanding, because I am disabled and on medication, I will be placed, only after all the non-disabled prisoners, IF EVER !

I find this in violation of the Americans With Disabilities Act, 42 U.S.C. 12132; 42 U.S.C. 12131:

'Subject to the provision of this title, no qualified individual with a disability, shall, by reason of such disability, be excluded from participation in or denied the equal benefits of services, programs or activities of a public entity. 42 12132

and

'if a disabled prisoner satisfies all the eligibility requirements for some correctional service program or activity, A.D.A. prohibits state officials from discriminating against him or her, by reason of that disability. THIS MEANS STATE OFFICIALS ARE OBLIGATED TO MAKE REASONABLE MODIFICATIONS TO ENSURE THE DISABLED PRISONER IS GRANTED EQUAL ACCESS TO ALL D.O.C. PROGRAMS AND ACTIVITIES. 42 12131(2).

This was also brought to the attention of the United States Supreme Court in *Yeskey v. Pa. Dept. of Corrections*, 118, U.S. SCT. 1952 (1998). Plain text of Title II of the Americans With Disabilities Act, unambiguously extends to state prison inmates. Furthermore, it is so stated in Federal Grant Requirements.

'if a program is federally funded in part or in whole, it must be A.D.A. compliant and not discriminate toward the disabled in any manner, or risk forfeiting said grants, funding and/or monies'

All these Dept. of Correction Programs, Community Correction Division, are in some manner, Federally Funded to my understanding.

So, I am asking your agency to enter into this situation, as an advocate on my behalf. Please investigate my claims and assist in anyway your agency possibly can to rectify this situation and stop the discrimination to me.

I presently have a lawsuit pending in part due to A.D.A. violation against the Dept. of Corrections, *PA. Moser v. Kyler*, 1:00-CU-01846 M.D. PA. / U.S. District CT.

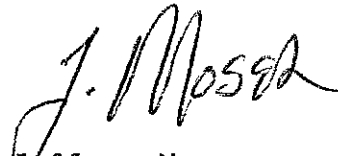
It is not my intention to add this situation to the afore said civil action, it is my intention ONLY to get to an in-patient alcohol treatment program (28 days) as soon as possible so that I can complete the program and return home to my own doctors and receive my spinal operation, also to be reunited with my wife and small children, without further delay due to my disabilities and/or retaliation towards me as a result of this and other correspondence seeking assistance.

I am willing to co operate with any requirement for assistance you might have. Please let me know what I must do to gain your assistance.

I,pray for your help and support in this matter and patiently await your response.

Thank you for your time and consideration in this matter.

Respectfully yours,



Jeffery Moser
BE 4713 SCIH
1100 Pike Street
Huntingdon, PA. 16654-1112

Date: _____

NOTICE OF BOARD DECISION
PEPP-15(8/86)

COMMONWEALTH OF PENNSYLVANIA
PENNA. BOARD OF PROBATION AND PAROLE

644
Labor Pool

DATE: 03/30/2001

CLIENT NAME: JEFFREY MOSER
INSTITUTION: SCI - HUNTINGDON

PAROLE NO: 5625W
INSTITUTION NO: BE4713

AS RECORDED ON 03/30/2001 THE BOARD OF PROBATION AND PAROLE RENDERED THE
FOLLOWING DECISION IN YOUR CASE:

FOLLOWING AN INTERVIEW AND REVIEW OF YOUR FILE, THE PENNSYLVANIA BOARD OF
PROBATION AND PAROLE HAS DETERMINED THAT THE FAIR ADMINISTRATION OF JUSTICE
MAY BE ACHIEVED THROUGH YOUR RELEASE ON REPAROLE, AND SUBJECT TO YOUR
COMPLIANCE WITH ALL OF THE TERMS AND CONDITIONS OF REPAROLE SUPERVISION. YOU
ARE THEREFORE:

REPAROLED TO IN-PATIENT ALCOHOL AND OTHER DRUG TREATMENT PROGRAM. YOU SHALL
ENTER INTO AND ACTIVELY PARTICIPATE IN THE IN-PATIENT TREATMENT PROGRAM UNTIL
SUCCESSFULLY DISCHARGED BY THE PAROLE SUPERVISION STAFF. YOU SHALL ABIDE BY
ALL THE ESTABLISHED RULES AND REGULATIONS OF THE IN-PATIENT TREATMENT PROGRAM.
ANY VIOLATION OF THE PROGRAM RULES OR REGULATIONS MAY CONSTITUTE A VIOLATION
OF PAROLE AND RESULT IN YOUR ARREST. YOU MUST SIGN AN APPROPRIATE RELEASE
FORM FOR CONFIDENTIAL INFORMATION. APPROVED HOME TO BE AVAILABLE PRIOR TO
RELEASE IF PROGRAM LESS THAN 90 DAYS. BEFORE YOU CAN BE RELEASED, YOU SHALL PROVIDE PROOF OF PAYMENT OF AT LEAST
\$30.00 OF MANDATORY COURT COSTS IN ACCORDANCE WITH 18 P.S. § 11.1101.

OUT-PATIENT ALCOHOL TREATMENT IS A SPECIAL CONDITION OF YOUR REPAROLE
SUPERVISION UNTIL THE TREATMENT SOURCE AND OR PAROLE SUPERVISION STAFF
DETERMINE IT IS NO LONGER NECESSARY. YOU SHALL BE REQUIRED TO SIGN THE

(CONTINUE ON REVERSE)

PAROLE VIOLATION MAX DATE: 05/28/2004
CC: DISTRICT ATTORNEY

CLIENT COPY

JEFFREY MOSER
SCI - HUNTINGDON
1100 PIKE STREET
HUNTINGDON, PA

BE4713

16654-1112

Kathleen Zwierzyzna
KATHLEEN ZWIERZYNA
BOARD SECRETARY

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the below-referenced document(s) upon the person and in the manner indicated below:

Service by first class mail addressed as follows:

1.) SHAWN P. KENNY ESQ.
OFFICE OF CHIEF COUNSEL
55 UTLEY DRIVE
Camp Hill PA. 17011

2.) Clerk of Courts
U.S. District Court
228 Walnut St.
P.O. Box 983
Harrisburg, Pa. 17108

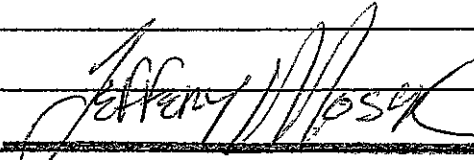
3.) JAMES D. YOUNG ESQ.
P.O. Box 1245
Harrisburg, PA. 17108-1245

RE:

(MOSER VS. KYLER ET. AL., 1:00-CV-1846)

6 JUNE 2001

Dated:


JEFFERY PAUL MOSER BE4713 (Plaintiff)
1100 PIKE ST.
Huntingdon, Pa. 16654-1112